

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION AT SANTA ANA  
HONORABLE JOSEPHINE L. STATON, JUDGE PRESIDING  
**CERTIFIED TRANSCRIPT**

PRESLIE HARDWICK, )  
 )  
 PLAINTIFF, )  
 )  
 VS. ) SACV NO. 13-1390-JLS  
 )  
 COUNTY OF ORANGE, ET AL., )  
 )  
 DEFENDANTS. )  
 )

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REPORTER'S TRANSCRIPT OF PROCEEDINGS  
SANTA ANA, CALIFORNIA  
FRIDAY, MARCH 20, 2015  
2:21 P.M.

DEBORAH D. PARKER, CSR 10342  
OFFICIAL COURT REPORTER  
UNITED STATES DISTRICT COURT  
411 WEST FOURTH STREET  
SUITE 1-053  
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APPEARANCES OF COUNSEL:

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FOR THE DEFENDANTS, COUNTY OF ORANGE, ET AL.:

NORMAN J. WATKINS  
PANCY LIN  
LYNBERG & WATKINS  
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1 SANTA ANA, CALIFORNIA; FRIDAY, MARCH 20, 2015; 2:21 P.M.

2 THE CLERK: CALLING CALENDAR ITEM NO. 1,  
3 SACV 13-1390-JLS, PRESLIE HARDWICK VERSUS COUNTY OF ORANGE,  
4 ET AL.

5 COUNSEL, YOUR APPEARANCES, PLEASE.

6 MR. INGOLS: DENNIS INGOLS, FROM THE OFFICES OF  
7 ROBERT R. POWELL, ON BEHALF OF THE PLAINTIFF, WHO IS PRESENT  
8 WITH ME IN COURT.

9 THE COURT: GOOD AFTERNOON.

MR. WATKINS: GOOD AFTERNOON, YOUR HONOR.

11 NORM WATKINS, PANCY LIN, ON BEHALF OF DEFENDANTS.

12 THE COURT: GOOD AFTERNOON.

13 ALL RIGHT. WE ARE HERE ON THE DEFENDANTS' MOTION  
14 FOR SUMMARY JUDGMENT OR, ALTERNATIVELY, PARTIAL SUMMARY  
15 JUDGMENT, AND PLAINTIFF'S MOTION AS WELL.

16 AND SO, I'D LIKE TO GIVE EACH OF YOU THE  
17 OPPORTUNITY TO BE HEARD. LET'S GO AHEAD, AND -- I'M GOING  
18 TO BEGIN WITH DEFENDANTS' MOTION, SO LET'S HAVE DEFENDANT  
19 STEP TO THE PODIUM -- DEFENSE COUNSEL, AND --

20 MR. WATKINS: THANK YOU, YOUR HONOR.

21 THE COURT: ANYTHING YOU WOULD LIKE TO HIGHLIGHT  
22 IN YOUR PAPERS, THAT'S FINE; OR ANYTHING THAT YOU THINK IS  
23 NOT CLEAR. IN OTHER WORDS, SOMETHING ALONG THOSE LINES,  
24 THAT'S FINE.

25 MR. WATKINS: I THINK OUR PAPERS ARE PRETTY

02:22:21 1 COMPREHENSIVE, AT LEAST AS I REVIEW THEM TODAY. I DON'T SEE  
2 ANYTHING THAT JUMPS OUT AT ME AS MISSING.

3 I JUST HIGHLIGHT A COUPLE OF THINGS: FIRST, THE  
4 ISSUE OF QUALIFIED IMMUNITY, WHICH I THINK IS THE FIRST  
02:22:38 5 ISSUE THAT WE ADDRESSED IN THE MOTION. AS WE SEE IT, THE  
6 FAMILIAL ASSOCIATION CLAIM ARISING UNDER THE 14TH AMENDMENT,  
7 IT HAS BEEN ADDRESSED BY A.A. COSTANICH, WHICH IS CITED  
8 THROUGHOUT THE BRIEFING.

9 THE COURT: IT'S ALSO ADDRESSED IN *GREENE*, WAS IT  
02:23:01 10 NOT?

11 MR. WATKINS: IT WAS.

12 AND THE UNUSUAL THING ABOUT COSTANICH, YOUR HONOR,  
13 IS THAT WE HAVE THE NINTH CIRCUIT TELLING US WHAT WAS NOT  
14 ESTABLISHED IN THE LAW. AND IT'S JUST -- IT SEEMS -- IT  
02:23:21 15 SEEMS CLEAR THAT THE DISTINCTION -- THERE'S NO QUESTION, THE  
16 DISTINCTION THAT THE NINTH CIRCUIT WAS LOOKING AT WAS ONE  
17 BETWEEN CIVIL AND CRIMINAL IN CHILD ABUSE PROCEEDINGS. AND  
18 GIVEN THAT DISTINCTION AND GIVEN THIS CASE, THERE'S NO  
19 QUESTION THAT BACK IN 2000 WHEN THESE EVENTS OCCURRED --

02:23:43 20 THE COURT: *GREENE* WAS NOT A CRIMINAL CASE, WAS  
21 IT?

22 MR. WATKINS: I DON'T BELIEVE IT WAS.

23 THE COURT: ALL RIGHT. IT WAS A CIVIL CASE.

24 MR. WATKINS: IT WAS.

02:23:49 25 THE COURT: AND IT WAS DECIDED -- IT WAS DECIDED

02:23:55 1 IN 2009 AND IT TALKED ABOUT A CLEARLY ESTABLISHED RIGHT.

2 WHY IS *GREENE* NOT MORE ON POINT THAN *COSTANICH*?

3 I THINK THOSE CASES ARE -- ALTHOUGH THE PLAINTIFF  
4 SAYS THAT THEY'RE EASILY RECONCILABLE -- AND YOU CALL TELL  
02:24:10 5 ME WHY YOU THINK THAT -- I'M NOT SO SURE THAT THEY'RE EASILY  
6 RECONCILABLE, BUT *GREENE* SEEMS TO BE MORE ON POINT WITH  
7 REGARD TO THESE PARTICULAR KINDS OF PROCEEDINGS: REMOVAL OF  
8 A CHILD FROM BIOLOGICAL PARENTS.

9 MR. WATKINS: *GREENE* IS A 2009 CASE WHICH DOESN'T  
02:24:28 10 DO MUCH HELP FOR US IN 2000.

11 THE COURT: WELL -- BUT IT TALKS ABOUT AN EARLIER  
12 DATE WHEN IT WAS ESTABLISHED -- IT WAS CLEARLY ESTABLISHED  
13 IN 2000, I BELIEVE, IS WHAT IT SAYS.

14 MR. WATKINS: I THINK THE REFERENCE IN THERE IS TO  
02:24:41 15 A CRIMINAL PROCEEDING, THE 2000 PROCEEDING. I COULD BE  
16 MISTAKEN, BUT I THINK THAT'S PRETTY CLEAR.

17 THE COURT: WELL, I THINK THE HOLDING WAS THAT  
18 THIS PARTICULAR RIGHT -- IT WAS, IN *GREENE*, NOT A CRIMINAL  
19 PROCEEDING -- WAS A RIGHT THAT WAS ESTABLISHED AS OF 2000.  
02:24:59 20 THAT'S WHAT IT SAYS.

21 MR. WATKINS: WELL, THE LATER DECISION IN  
22 *COSTANICH* CLEARLY TELLS US THAT UNLESS -- ABSENT SOMETHING  
23 IN THAT OPINION THAT TAKES THAT CASE OUT OF THE CIVIL CHILD  
24 ABUSE REALM, THE NINTH CIRCUIT IS TELLING US THAT FROM ITS  
02:25:27 25 PERSPECTIVE, AT LEAST IN THE CIVIL SIDE, THAT THE RIGHT WAS

02:25:31 1 NOT CLEARLY ESTABLISHED. AND COSTANICH IS COSTANICH. I  
2 MEAN, IT'S --

3 THE COURT: UNLESS YOU CAN TELL ME WHY -- UNLESS  
4 YOU CAN DISTINGUISH THOSE TWO CASES AND TELL ME WHY THAT'S  
02:25:46 5 NOT MORE ON POINT THAN THE *GREENE* CASE, WHICH INVOLVED A  
6 PLAINTIFF WHO HAD HER CHILDREN REMOVED FROM CUSTODY PURSUANT  
7 TO A JUVENILE COURT ORDER --

8 MR. WATKINS: IF I MAY, YOUR HONOR.

9 THE COURT: -- I DON'T WANT YOU TO READ THE CASE  
02:26:03 10 NOW AND TELL ME.

11 MR. WATKINS: OH, NO, NO, NO, NO. I'VE GOT A NOTE  
12 FROM MY CO-COUNSEL.

13 *GREENE* IS DEALING WITH A FOURTH AMENDMENT JUDICIAL  
14 DECEPTION CLAIM. COSTANICH WAS DEALING WITH A FAMILIAL  
02:26:24 15 ASSOCIATION CLAIM UNDER THE FOURTEENTH AMENDMENT. THAT'S  
16 THE DIFFERENCE. AT LEAST, THAT'S THE DIFFERENCE THAT WE  
17 SEE. AND IN *GREENE*, IF I'M NOT MISTAKEN, IT RELIED ON  
18 *DEVEREAUX*, WHICH IS A CRIMINAL CASE.

19 THE COURT: BUT IT APPLIED IT TO CIVIL PROCEEDING.

02:26:45 20 MR. WATKINS: IT APPLIED IT TO --

21 THE COURT: AND IT SAID IT WAS ESTABLISHED AS OF  
22 2000. IT DID NOT MAKE THAT DISTINCTION THEN.

23 MR. WATKINS: UNDER THE FOURTH AMENDMENT CLAIM.

24 LET ME TURN TO THE FOURTH AMENDMENT CLAIM, BECAUSE  
02:27:08 25 I THINK THAT THE QUALIFIED IMMUNITY DOCTRINE APPLIES TO THAT

02:27:13 1 CLAIM AS WELL FOR THIS REASON: THERE'S NO COSTANICH IN  
2 CONNECTION WITH THAT CLAIM. BUT WHAT WE KNOW -- AND IT'S  
3 NOT DISPUTED -- IS THAT IN THIS CASE, THE SOCIAL WORKER  
4 REMOVED THE CHILD PURSUANT TO AN ORDER DIRECTING HER TO DO  
02:27:31 5 SO AND AN ORDER THAT SHE DID NOT SEEK. IT CAME *SUA SPONTE*  
6 FROM THE COURT. THERE ARE NO --

7 THE COURT: WELL, ISN'T THAT A QUESTION OF FACT?  
8 I MEAN, THERE WAS THE OFF-THE-RECORD DISCUSSION -- OFF THE  
9 RECORD; AND THEN, THE JUDGE MADE THAT DETERMINATION?

02:27:53 10 MR. WATKINS: THERE'S NO QUESTION THERE'S A  
11 DISPUTE ABOUT WHO SAID WHAT IN THAT FEBRUARY 15TH VISIT, BUT  
12 MY POINT IS A LITTLE DIFFERENT.

13 THE COURT: OKAY.

14 MR. WATKINS: MY POINT IS THIS: THAT AS OF 2000,  
02:28:04 15 THERE WERE NO CASES DEALING WITH A SITUATION WHERE A SOCIAL  
16 WORKER WENT INTO COURT AND DID NOT SEEK A REMOVAL ORDER AND  
17 THAT FOR WHATEVER REASON THE COURT ORDERED REMOVAL AND THE  
18 SOCIAL WORKER MADE THE REMOVAL -- COMPLIED WITH THE COURT  
19 ORDER AND EFFECTED THE REMOVAL AND WAS THEN HELD TO HAVE  
02:28:27 20 VIOLATED CONSTITUTIONAL RIGHTS. THERE WAS NO CASE LAW AT  
21 THAT POINT -- IN FACT, I DON'T THINK THERE IS TODAY --  
22 SAYING THAT ABIDING BY OR EFFECTING A COURT ORDER CAN GIVE  
23 RISE TO A FOURTH AMENDMENT CLAIM.

24 THE COURT: WHY -- WHY IS THAT THE ISSUE: ABIDING  
02:28:47 25 BY A COURT ORDER? ISN'T THE ISSUE WHETHER THE COURT ORDER

02:28:51 1 WAS OBTAINED THROUGH DECEPTION?

2 MR. WATKINS: THAT WOULD BE A FACTUAL ISSUE, NO  
3 QUESTION ABOUT IT. THE QUESTION THAT WE'RE ADDRESSING ON  
4 THE QUALIFIED IMMUNITY FRONT IS WHETHER OR NOT IT WAS  
02:29:02 5 CLEARLY ESTABLISHED. ASSUMING FOR ARGUMENTS PURPOSES THAT  
6 THE SOCIAL WORKER DID MISREPRESENT THE FACTS, THE QUESTION  
7 THEN BECOMES: WAS IT CLEARLY ESTABLISHED IN THE CONTEXT OF  
8 A FOURTH AMENDMENT CLAIM THAT A SOCIAL WORKER WHO SAYS  
9 SOMETHING THAT IS INCORRECT OR A MISREPRESENTATION BUT  
02:29:24 10 NONETHELESS DOES NOT SEEK AND DOES NOT ASK FOR A REMOVAL  
11 ORDER AND THE REMOVAL COMES AS A RESULT OF *SUA SPONTE* ORDER  
12 FROM THE COURT --

13 THE COURT: BASED ON THE UNDERLYING DECEPTION?  
14 YOU HAVE TO ASSUME THAT, BECAUSE THOSE ARE THE FACTS. AND  
02:29:42 15 MAYBE EVEN BASED ON SOME SORT OF -- I'M NOT SURE WHAT THE  
16 SUBSTANCE OF THE ORAL COMMUNICATIONS WERE BEFORE THE COURT'S  
17 DECISION, BUT -- WHEN YOU SAY "NOT SEEKING AN ORDER," I  
18 DON'T KNOW WHAT THEY WERE SEEKING OR NOT SEEKING?

19 MR. WATKINS: NO, NO. IT'S UNDISPUTED THAT THE  
02:30:00 20 SOCIAL WORKER'S RECOMMENDATION TO THE COURT WAS THAT CUSTODY  
21 REMAINED WITH THE MOTHER. THAT'S A WRITTEN SUBMISSION TO  
22 THE COURT.

23 NOW, THE -- IN FACT, ONE OF THE CASES, AN  
24 UNPUBLISHED CASE CITED BY PLAINTIFF, MAKES A POINT THAT I  
02:30:18 25 THINK DRIVES THIS HOME, AND THAT IS THIS BAKER CASE. IN

02:30:23 1 THAT CASE THE COURT, IN DEALING WITH THE SIMILAR CLAIM,  
2 POINTED OUT AT THE END OF THE DAY THAT BECAUSE THERE WERE  
3 MULTIPLE THINGS IN FRONT OF THE COURT WHO ISSUED THE ORDER,  
4 IT WAS IMPOSSIBLE TO FIND THAT, BUT FOR THE ALLEGED  
02:30:41 5 MISREPRESENTATION, THERE WOULD HAVE BEEN NO REMOVAL.

6 WE HAVE THE SAME SITUATION HERE. THE RECORD IS --  
7 AND I DON'T THINK IT WILL BE DISPUTED -- THAT IN ADDITION TO  
8 THE ISSUE OF WHO SAID WHAT TO WHOM ON FEBRUARY 15TH, WHICH  
9 WAS DISPUTED, THERE'S NO QUESTION THAT THE COURT WAS GIVEN  
02:31:02 10 EVIDENCE THAT OTHER MISCONDUCT HAD OCCURRED IN THE NATURE OF  
11 MISSED VISITS, MISSED PHONE CALLS AND A MISSED -- EVIDENCE  
12 THAT THERE WAS DISCUSSION ABOUT ISSUES IN THE CASE WITH THE  
13 CHILD NOT INVOLVED IN FEBRUARY THE 15TH.

14 SO, AGAIN, THE QUESTION IN THE QUALIFIED IMMUNITY  
02:31:27 15 AREA IS: AS OF 2000, WAS THERE CLEAR CASE LAW IN THIS  
16 CIRCUIT THAT WOULD PUT AN OFFICER ON NOTICE OR A SOCIAL  
17 WORKER ON NOTICE THAT IN EFFECTING A COURT ORDER DIRECTING  
18 REMOVAL THAT IF ANYTHING WAS SAID IN THAT PROCEEDING THAT  
19 WAS FALSE, THAT YOU WERE VIOLATING A CLEAR PRECEDENT WHEN  
02:31:57 20 YOU HAD NOT REQUESTED THE REMOVAL ORDER IN THE FIRST PLACE.

21 THAT'S THE POINT, AND --

22 AND I THINK IT'S STILL TRUE TODAY. I DON'T KNOW  
23 THAT THERE ARE ANY CASES DEALING WITH THAT -- WITH THE  
24 POSSIBLE EXCEPTION OF THE UNPUBLISHED CASE THAT PLAINTIFF  
02:32:14 25 CITED.

02:32:15 1 IF I MAY TURN TO ABSOLUTE IMMUNITY?

2 THE COURT: YOU MAY.

3 MR. WATKINS: THANK YOU, YOUR HONOR.

4 THE COURT: AND THERE YOU CAN TELL ME WHY IT IS I

02:32:25 5 SHOULD TREAT A SOCIAL WORKER LIKE A PROSECUTOR?

6 MR. WATKINS: BECAUSE THERE ARE MANY, MANY, MANY  
7 CASES THAT SAY YOU SHOULD.

8 THE COURT: IN ALL CONTEXTS? OR JUST IN THE  
9 INITIATION OF THE PROCEEDINGS?

02:32:41 10 MR. WATKINS: NO. IN VARIOUS CONTEXTS. SOME YES;  
11 SOME NO. THAT WAS THE POINT OF *BELTRAN II*, THE EN BANC  
12 DECISION. THE LAW HAD BEEN PRETTY WELL UNDERSTOOD UP TO  
13 THAT POINT IN TIME THAT ONCE A SOCIAL WORKER INITIATED A  
14 PETITION FOR DEPENDENCY THAT EVERYTHING THEY DID FROM THAT  
02:33:02 15 POINT ON WAS COVERED BY ABSOLUTE IMMUNITY. IT WAS A  
16 HARD-AND-FAST RULE.

17 AND THE WAY I UNDERSTAND *BELTRAN II*, *BELTRAN II*  
18 SAYS, NOT SO FAST. IT ISN'T AUTOMATIC. IT DEPENDS ON THE  
19 FUNCTION THAT THE SOCIAL WORKER IS PERFORMING. IF THE  
02:33:26 20 SOCIAL WORKER IS PERFORMING A FUNCTION THAT IS TYPICALLY  
21 QUASI-PROSECUTORIAL AND, YES, ABSOLUTE IMMUNITY APPLIES; AND  
22 IF NOT, NO, IT DOESN'T APPLY.

23 AND, FOR EXAMPLE --

24 THE COURT: SO IF A SOCIAL WORKER IS FABRICATING  
02:33:41 25 EVIDENCE DURING THE COURSE OF INVESTIGATION, IT WOULD NOT

02:33:44 1 APPLY?

2 MR. WATKINS: CORRECT. IF A SOCIAL WORKER GAVE  
3 FALSE AFFIDAVIT TO THE COURT, IT WOULD NOT APPLY. IN THIS  
4 SITUATION, IT'S VERY CLEAR THAT THE CLAIMED MISCONDUCT FELL  
02:33:59 5 INTO NEITHER ONE OF THOSE CATEGORIES. THE CLAIMED  
6 MISCONDUCT WAS A STATEMENT TO THE COURT OFF THE RECORD,  
7 OR -- ACTUALLY, I THINK IT WAS ON THE RECORD, NOT UNDER  
8 OATH, MUCH THE SAME AS A PROSECUTOR WOULD MAKE PRESENTING  
9 ISSUES TO THE COURT EITHER BEFORE OR AFTER TRIAL ON A GIVEN  
02:34:19 10 DAY.

11 THE COURT: WHY WOULD IT BE THE SAME AS A  
12 PROSECUTOR?

13 I MEAN, I DON'T SEE THE SOCIAL WORKER ACTING AS A  
14 PROSECUTOR OR IN A QUASI-PROSECUTORIAL FUNCTION, NUMBER ONE.

02:34:32 15 NUMBER TWO, I DON'T SEE THAT THE PLAINTIFF IS  
16 NARROWING WHAT THEIR CLAIM IS IN THE WAY YOU ARE.

17 DO YOU SEE THAT THE ONLY CLAIM THEY'RE MAKING IS  
18 THE SINGLE STATEMENT TO THE COURT OFF THE RECORD? THAT'S  
19 THE SCOPE OF THE LITIGATION?

02:34:50 20 MR. WATKINS: I THINK THEY'RE MAKING SEVERAL  
21 CLAIMS: ONE, THAT STATEMENT; TWO, THE CLAIM THAT THERE WAS  
22 A FAILURE TO PRODUCE EXONERATORY EVIDENCE. AND WE'VE CITED  
23 IN OUR BRIEF A CASE DIRECTLY ON POINT, AND I THINK IT'S --  
24 MAYBE KALINA, OUT OF THE U.S. SUPREME COURT, THAT RECOGNIZES  
02:35:16 25 THOSE AS PROSECUTORIAL FUNCTIONS ENTITLED TO THE IMMUNITY.

02:35:27 1 TURNING, IF I CAN, TO --  
2 WELL, BEFORE I LEAVE THAT, THE COURT MENTIONED  
3 FALSIFYING EVIDENCE IN AN INVESTIGATION. I DON'T THINK  
4 THERE'S ANY DISPUTE. IN FACT, THE COMPLAINT ITSELF ALLEGES  
02:35:42 5 THAT THE INVESTIGATION -- STATES THAT THE INVESTIGATION WAS  
6 COMPLETE WHEN THE ALLEGED MISCONDUCT OCCURRED. AND IT WAS.  
7 THAT'S REALLY NOT A DISPUTE.

8 NOW, WITH RESPECT TO *MONELL*, HERE IT'S JUST A  
9 FAILURE OF PROOF. THERE'S NO EVIDENCE OF ANY POLICY, OR  
02:36:04 10 CUSTOM, OR PRACTICE FROM THE BOARD OF SUPERVISORS.

11 CERTAINLY, THERE'S NO EVIDENCE OF MULTIPLE INCIDENTS THAT  
12 WOULD BE SUFFICIENT TO ESTABLISH A POLICY OR A CUSTOM OR  
13 PRACTICE.

14 THE EVIDENCE IN THIS CASE, AS WE'VE POINTED OUT,  
02:36:28 15 IS SIMPLY AN ALLEGATION AND THEN, THERE'S REFERENCE TO SOME  
16 DISCOVERY RESPONSES THAT WERE MADE IN THE MOTHER'S CASE AND  
17 THOSE DISCOVERY RESPONSES ALL ONLY ACKNOWLEDGE COURSE AND  
18 SCOPE. SAY, YES, I WAS ON DUTY WHEN THESE EVENTS OCCURRED.

19 AND WE'VE CITED TO AN UNPUBLISHED DECISION OR  
02:36:54 20 ORDER FROM THIS COURT, ACTUALLY, WHICH ADDRESSED THAT  
21 PRECISE POINT SAYING, YOU KNOW, AN OFFICER SAYING, YES, I  
22 WAS ACTING PURSUANT TO MY DEPARTMENT'S POLICIES IS AN  
23 ACKNOWLEDGMENT THAT I WAS ACTING WRONGFULLY PURSUANT TO  
24 THOSE POLICIES.

02:37:12 25 THE COURT: I'M GOING TO STOP YOU. I CAN'T RECALL

02:37:14 1 EVERY CASE I'VE DECIDED. WHEN YOU SAY "THIS COURT," DO YOU  
2 MEAN ME?

3 MR. WATKINS: NO, NO, I DON'T. I'M SORRY.

4 THE COURT: OKAY. THERE'S NO SUCH THING AS "THIS  
02:37:20 5 COURT," OTHER THAN ME.

6 MR. WATKINS: I'M SORRY, YOUR HONOR. I MEANT OUT  
7 OF THIS DISTRICT.

8 THE COURT: OUT OF THIS DISTRICT.

9 OKAY. THE NINTH CIRCUIT IS ONE ENTITY. IF ONE  
02:37:27 10 PANEL HOLDS SOMETHING, EVERYBODY ELSE IS BOUND BY IT. I'M  
11 NOT BOUND BY SOMETHING SOMEBODY ELSE SAID THAT'S A DISTRICT  
12 COURT. BUT IF IT WAS ME, I WOULD WANT TO KNOW AND YOU COULD  
13 TELL ME THAT.

14 MR. WATKINS: I'M SORRY, YOUR HONOR. NO, NO. AND  
02:37:38 15 WE CITED IT IN THE BRIEF. IT'S JUDGE TAYLOR.

16 BUT ANYWAY -- AND WE INCLUDED IT IN THE BRIEF,  
17 BECAUSE IT WAS JUST A THOUGHT. IT JUST WENT RIGHT TO THAT  
18 THE POINT.

19 SO UNLESS THE COURT HAS ADDITIONAL QUESTIONS --

02:37:56 20 THE COURT: I DON'T THINK I HAVE ANY MORE  
21 QUESTIONS FOR YOU, RIGHT NOW.

22 I HAVE SOME QUESTIONS, PERHAPS, FOR THE PLAINTIFF.

23 MR. WATKINS: THANK YOU VERY MUCH, YOUR HONOR.

24 THE COURT: THANK YOU.

02:38:09 25 I'M GOING TO START WITH YOU WHERE WE JUST ENDED

02:38:13 1 WITH DEFENSE COUNSEL, AND THAT'S ON THE MONELL CLAIM. I'M  
2 WONDERING WHAT IS THE POLICY, CUSTOM, OR PRACTICE, BECAUSE I  
3 LOOKED AT YOUR PAPERS AND TRIED TO FIND, OTHER THAN FINDING  
4 THAT THE OTHER JURY FOUND THAT THERE MUST HAVE BEEN ONE, A  
02:38:34 5 CITATION, I THINK, TO A CLOSING ARGUMENT WHERE YOU TALK  
6 ABOUT ONE; A CITATION TO THE RFA'S, WHICH JUST AGAIN SAYS  
7 THAT THEY WERE ACTING PURSUANT TO POLICY AND WHICH I THINK  
8 MAY JUST BE A COURSE AND SCOPE OF EMPLOYMENT RESPONSE.

9 I DIDN'T SEE ANY FACTS IN ANY GENUINE STATEMENTS  
02:39:01 10 OF FACTS OR ANYTHING ALONG THOSE LINES THAT TELLS ME WHAT  
11 THAT POLICY IS, SO I WOULD LIKE YOU TO POINT ME IN YOUR  
12 PAPERS TO WHERE YOU DESCRIBE OR STATE AND HAVE EVIDENCE OF  
13 WHAT THE POLICY IS THAT --

14 MR. INGOLS: SURE, YOUR HONOR.

02:39:27 15 AS YOU KNOW, THE FILE IS QUITE THICK.

16 THE COURT: I DO AND WE SEARCHED. PERHAPS YOU  
17 HAVE IT MORE AT YOUR FINGERTIPS THAN WE DO.

18 (PAUSE.)

19 MR. INGOLS: WELL, YOUR HONOR, ALL IT IS -- IT IS  
02:40:06 20 ACCURATE TO SAY THAT ALL THAT IS IN OUR PLEADINGS IS  
21 POINTING TO THE COURT OF APPEALS' FINDING THAT THE JURY DID  
22 FIND THAT THERE WAS A MONELL VIOLATION WHICH WAS BASED IN  
23 LARGE PART ON THE REQUEST FOR ADMISSIONS RESPONSES WHICH  
24 ADMITTED THAT THEY WERE ACTING IN ACCORDANCE TO POLICY WHEN  
02:40:22 25 THEY WERE -- HAVE FOUND TO HAVE MISLED THE JUVENILE COURT.

02:40:26 1 THE COURT: OKAY. ALL RIGHT. SO LET ME LET YOU  
2 MOVE ON AND ADDRESS ANY ISSUE THAT YOU'D LIKE TO ADDRESS.

3 MR. INGOLS: WELL, YOUR HONOR, I DO THINK THE  
4 PLEADINGS FROM BOTH SIDES WERE QUITE THOROUGH, SO I HAVE  
02:40:39 5 VERY LITTLE TO ADD.

6 IT TROUBLES ME ANY SUGGESTION THAT THERE'S AN  
7 ARGUMENT THAT IT WAS SOMEHOW UNCLEAR THAT LYING TO A JUDGE  
8 IS BAD. IT'S BEEN CLEAR FOR A LONG, LONG TIME. ANY  
9 ARGUMENT TO THE CONTRARY SHOULD NOT BE CREDITED.

02:40:51 10 BEYOND THAT, I DON'T HAVE ANYTHING TO ADD. IF YOU  
11 HAVE ANY QUESTIONS, I'D BE HAPPY TO TRY TO ANSWER THEM.

12 THE COURT: I DON'T THINK I HAVE ANY FURTHER  
13 QUESTIONS. I KNOW YOU CAME ALL THE WAY FROM SAN JOSE. IT'S  
14 TOO BAD THAT I DON'T HAVE MORE QUESTIONS FOR YOU AT THIS  
02:41:05 15 POINT.

16 YOU DID COME FROM SAN JOSE, RIGHT?

17 MR. INGOLS: I DID, YOUR HONOR.

18 THE COURT: ALL RIGHT. I DON'T HAVE ANY MORE  
19 QUESTIONS. I ASKED THE MONELL QUESTION THAT I HAD. SO  
02:41:14 20 THERE'S REALLY NOTHING TO RESPOND TO AT THIS POINT.

21 SO THE COURT WILL TAKE THE MATTER UNDER SUBMISSION  
22 AND THE RULING WILL BE POSTED ON THE DOCKET.

23 WHAT'S OUR TRIAL DATE HERE FOR THIS ONE? DO YOU  
24 KNOW?

02:41:29 25 MR. WATKINS: MAY 19TH, I THINK, YOUR HONOR.

02:41:31 1 THE COURT: MAY 19TH.  
2  
3 OKAY. AND YOUR FINAL PRETRIAL CONFERENCE IS  
4 MAY 1ST. AND I KNOW THAT THIS -- THE FACTUAL CIRCUMSTANCES  
5 HERE, YOU'VE BEEN THROUGH THIS BEFORE, BUT HAVE YOU GONE  
02:41:48 5 THROUGH A SETTLEMENT CONFERENCE ON THIS CASE?

6 MR. WATKINS: WE HAVE, YOUR HONOR.  
7  
8 THE COURT: YOU HAVE. WHEN WAS THAT? HOW LONG  
9 AGO?

10 MR. INGOLS: FAIRLY RECENTLY. I DON'T RECALL THE  
02:41:57 10 EXACT DATE.

11 THE COURT: OH, IT WAS.  
12 MR. INGOLS: A MONTH AGO, YOUR HONOR.  
13  
14 THE COURT: ALL RIGHT. DON'T TELL ME WHAT WAS  
DISCUSSED IN ANY WAY. BUT ARE THERE ANY FURTHER SETTLEMENT  
02:42:07 15 DISCUSSIONS THAT ARE ANTICIPATED?

16 MR. WATKINS: NO, YOUR HONOR.  
17 THE COURT: ALL RIGHT.  
18  
19 MR. INGOLS: CERTAINLY NOT PRIOR TO YOUR HONOR'S  
DECISION.

20 THE COURT: THAT'S FINE. I'LL BE PREPARED TO  
21 RULE, PROBABLY, BEFORE YOU WOULD HAVE THE TIME TO ENGAGE IN  
22 ANY FURTHER SETTLEMENT CONFERENCES ANYWAY.

23  
24 MR. WATKINS: ALL I'LL SAY WITHOUT GETTING INTO  
THE IMPERMISSIBLE REALM IS THAT THE SIDES ARE WORLDS APART  
02:42:28 25 AND YOUR RULING WOULD, PROBABLY, HELP QUITE A BIT, ONE WAY

02:42:31 1 OR THE OTHER.

2 THE COURT: ALL RIGHT. WELL, WE'LL SEE IF THAT'S  
3 THE CASE. I MAY -- AFTER RULING, I MAY ORDER YOU FOLLOW UP  
4 WITH A MEDIATOR; OR, IF NECESSARY, A MAGISTRATE JUDGE. I  
02:42:43 5 THINK A MEDIATOR, PROBABLY, WOULD WORK, IF YOU ALREADY HAVE  
6 SOMEBODY THAT YOU'VE USED BEFORE.

7 MY CLERK IS LOOKING AT ME LIKE THERE MIGHT BE  
8 SOMETHING I NEED TO ADDRESS BEFORE I LET YOU GO.

9 (PAUSE.)

02:42:53 10 THE COURT: OH, I'M SENDING OUT -- I'M GOING TO BE  
11 SENDING OUT AN ORDER, PROBABLY -- IT MAY NOT GO OUT TODAY,  
12 BUT IT WILL, PROBABLY, GO OUT BY MONDAY. YOU ESTIMATED A  
13 20-DAY TRIAL. THAT'S REALLY NOT LIKELY TO BE THE CASE IN  
14 THIS COURT. BUT IF YOU THINK YOU'RE GOING TO HAVE A 20-DAY  
02:43:13 15 TRIAL, YOU'LL SEE WHAT I REQUIRE IN THE ORDER. I REQUIRE  
16 YOU TO GIVE ME VERY SPECIFIC INFORMATION ABOUT WHO YOUR  
17 WITNESSES ARE, WHAT THEY WILL TESTIFY TO, HOW LONG. AND I  
18 ALSO REQUEST THAT YOU LET ME KNOW WHETHER THE PARTIES WILL  
19 STIPULATE TO A TIME-QUALIFIED JURY; IF YOU DON'T, THEN WE  
02:43:34 20 HAVE A LITTLE BIT OF DIFFICULTY -- WE FOUND -- GETTING  
21 JURIES THAT ARE AVAILABLE FOR THAT PERIOD OF TIME.

22 SO THAT ORDER WILL BE COMING. IT WILL BE ISSUED  
23 ON MONDAY, AND YOU WILL NOT HAVE A WHOLE LOT OF TIME TO  
24 RESPOND TO IT, SIMPLY BECAUSE WE NEED TO KNOW ABOUT THE  
02:43:49 25 TIME-QUALIFIED JURY IN ADVANCE, BECAUSE WE HAVE TO SEND OUT

02:43:53 1 QUESTIONNAIRES. AND WITH YOUR TRIAL THIS CLOSE, WE'RE GOING  
2 TO HAVE TO SEND THAT OUT PRETTY SOON.

3 MR. INGOLS: WELL, YOUR HONOR, WITH THE  
4 UNDERSTANDING THAT THE -- I'M SURE COUNSEL'S ESTIMATE, AS  
02:44:02 5 WELL AS OURS, WOULD VARY, DEPENDING ON YOUR RULING.

6 THE COURT: YES, OF COURSE, I DO UNDERSTAND THAT.  
7 BUT BARRING THAT AND JUST BASED ON WHAT I HAVE, I'M GOING TO  
8 BE ISSUING THE RULING -- I MEAN, ISSUING THE ORDER ABOUT THE  
9 WITNESSES. NOW, IF WHAT YOU WOULD LIKE TO DO IS -- I WILL  
02:44:21 10 GIVE YOU THE OPTION. IF YOU DON'T HAVE MY RULING ON SUMMARY  
11 JUDGMENT BY THE TIME YOU'RE REQUIRED TO RESPOND TO THAT --  
12 WHICH I THINK I'M GIVING YOU 10 DAYS -- THEN, AT LEAST  
13 RESPOND TO THE PORTION RELATING TO WHETHER YOU STIPULATE TO  
14 A TIME-QUALIFIED JURY, BECAUSE THAT'S SOMETHING THAT WE HAVE  
02:44:38 15 TO GET OUT; AND THEN, WE CAN ALWAYS CHANGE THAT. WE CAN  
16 ALWAYS SAY, OKAY, WE DON'T NEED A TIME-QUALIFIED JURY NOW,  
17 BUT AT LEAST IT GIVES US THE ABILITY TO GO FORWARD WITH  
18 THAT, IF NECESSARY.

19 ALL RIGHT. HAVE A NICE WEEKEND.

02:44:53 20 MR. INGOLS: THANK YOU, YOUR HONOR.

21 THE CLERK: ALL RISE.

22 MR. WATKINS: YOUR HONOR, WE HAD PLAINTIFF'S  
23 MOTION ALSO PENDING.

24 THE COURT: I THOUGHT BOTH WERE GOING TO BE UNDER  
02:45:05 25 SUBMISSION.

02:45:05 1 I ASSUMED YOU WANTED --  
2  
3 MR. INGOLS: THAT'S WHAT I UNDERSTOOD AND  
INTENDED, YOUR HONOR.  
4  
02:45:11 5 THE COURT: I ASSUME SO, BECAUSE I ANNOUNCED BOTH  
AT THE BEGINNING OF THE HEARING.

6 ALL RIGHT.

7 MR. INGOLS: THANK YOU.

8 MR. WATKINS: THANK YOU, YOUR HONOR.

9 (AT 2:45 P.M., PROCEEDINGS WERE ADJOURNED.)

02:45:15 10  
11 -000-  
12

13 CERTIFICATE

14 I HEREBY CERTIFY THAT PURSUANT TO SECTION 753,  
02:45:15 15 TITLE 28, UNITED STATES CODE, THE FOREGOING IS A TRUE AND  
16 CORRECT TRANSCRIPT OF THE STENOGRAPHICALLY REPORTED  
17 PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER AND THAT THE  
18 TRANSCRIPT PAGE FORMAT IS IN CONFORMANCE WITH THE  
19 REGULATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

02:45:15 20  
21 DATE: JUNE 8, 2015  
22  
23

24 /S/DEBORAH D. PARKER  
02:45:15 25 DEBORAH D. PARKER, OFFICIAL REPORTER

DEBORAH D. PARKER, U.S. COURT REPORTER